

AGREEMENT TO LEASE 301 SOUTH OCEAN DRIVE

THIS LEASE AGREEMENT is entered into this 6th day of August 2020 by and between the **FORT PIERCE REDEVELOPMENT AGENCY ("FPRA")**, a dependent special district of the **CITY OF FORT PIERCE, FLORIDA**, and joined by the **CITY OF FORT PIERCE, FLORIDA ("CITY")**, a Florida municipal corporation, (hereafter collectively "**LANDLORD**"), whose address is 100 North U.S. #1, Fort Pierce, Florida 34950; and **RUTH M. CLENDENIN, ("TENANT")**, whose address is 1607 Seaway Drive, Fort Pierce, Florida 34949.

WITNESSETH:

WHEREAS, the **LANDLORD**, is the owner of property, consisting of approximately 1,000 square feet of commercial retail space, a paved parking area, and a concrete walk lying between the commercial retail space and State Road A1A, located at 301 South Ocean Drive in the City of Fort Pierce (the "**Demised Premises**"), and which is more fully depicted on Exhibit "**A**," attached hereto and incorporated herein by reference; and

WHEREAS, the **TENANT** has been selected by **LANDLORD** to lease and operate the **Demised Premises** for commercial purposes; and

WHEREAS, the **TENANT** is accepting this agreement to lease and operate the **Demised Premises**, subject to the review and approval of the **LANDLORD** and the terms and conditions of this Lease; and

WHEREAS, this Lease shall be subject to all existing zoning and building restrictions and regulations and provisions and clauses set forth herein.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, **LANDLORD** and

TENANT do hereby agree as follows:

1. **TERM.** The Term of this Lease shall be for a period of 364 days, unless sooner terminated pursuant to the terms set forth herein. The Lease Term shall commence on August 6, 2020 ("Effective Date"), notwithstanding the fact that the Lease may be executed by one or both parties after said date.

2. **DEMISED PREMISES.** The Demised Premises consists of approximately 1,000 square feet of commercial retail space, a paved parking area, and a concrete walk lying between the commercial retail space and State Road A1A, located at 301 South Ocean Drive in the City of Fort Pierce.

3. **ADJACENT SPACE.** In addition to the lease of the Demised Premises, LANDLORD further grants to TENANT a revocable license to utilize the adjacent unpaved space lying directly south of the paved parking area (approximately 60' x 30' in size) for overflow parking associated with the TENANT'S business. Such use by the TENANT, her employees, and customers shall not interfere with LANDLORD'S use of such space for ingress or egress to LANDLORD'S real property. If such use shall interfere with LANDLORD'S ingress or egress, or if LANDLORD shall elect to further develop or otherwise use such space, then LANDLORD shall have the right to revoke this license, or such portion of this license as is necessary to accommodate LANDLORD'S ingress, egress, use, and/or development.

4. **LEASE PAYMENTS.** In consideration of this Lease, TENANT shall pay LANDLORD, without demand, at the offices of the Director of Finance, City Hall, 100 North U.S. 1, Fort Pierce, Florida 34950, or such other place as LANDLORD may from time to time designate in writing, rent in the amount of \$2,000 per month, plus sales tax of \$130.00 for a total of \$2,130.00 payable in

advance, commencing on August 6, 2020, and the 6th day of each month thereafter. TENANT shall pay LANDLORD a late charge equivalent to five percent (5%) of the monthly rental payment for each payment of rent not received by the LANDLORD within ten (10) days of the day of the month when due. Payment shall be considered received upon actual receipt or, if mailed, the third day after the payment is deposited, postage prepaid and appropriately addressed, into a U.S. mail receptacle.

5. **TAXES.** If ad valorem taxes are applicable, TENANT agrees to pay its proportionate share as are billed and determined by LANDLORD or the taxing authority. TENANT further agrees that should any of its use of the property be subject to sales, use, excise, or rental taxes levied by any taxing authority, TENANT similarly agrees to pay such taxes and hold LANDLORD harmless from the same.

6. **INSURANCE.** LANDLORD shall obtain and maintain all risk commercial property insurance on the exterior structure of the Demised Premises. TENANT shall insure the contents of such buildings or structures. TENANT agrees to be responsible for loss or damage to any structure on the Demised Premises to the extent such loss or damage is subject to a deductible provision in the LANDLORD's provided insurance.

TENANT shall purchase and maintain Workers' Compensation insurance on a form no more restrictive than that provided by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than any endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer's right to subrogate against

LANDLORD. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One:	"Statutory"	
Part Two:	\$500,000	Each Accident
	\$500,000	Disease - Policy Limit
	\$500,000	Disease - Each Employee

TENANT shall purchase and maintain Commercial General Liability Insurance on a form no more restrictive than the latest edition of the standard occurrence Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), without any restrictive endorsements other than any endorsements specifically required by the ISO or the State of Florida.

In addition, LANDLORD shall be included as an "Additional Insured" on a form no more restrictive than ISO Form CG 20 11, Additional Insured-Managers or Lessors of Premises. The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be: \$1,000,000 - General Aggregate; \$1,000,000 - Products/Completed Operations Aggregate; and \$1,000,000 - Each Occurrence. Certificates of Insurance must be completed as follows:

1. Certificate Holder
Fort Pierce Redevelopment Agency ("FPRA")
Attention: City Manager, City Attorney, FPRA Director
100 N. U.S. Hwy 1
Fort Pierce, FL 34954-1480
2. Additional Insured for General Liability
City of Fort Pierce and its officials, officers, and employees

TENANT shall further furnish LANDLORD with executed Certificates of Insurance showing that such insurance is in full force and effect within thirty (30) days of the execution of this Lease, which certificate shall provide a minimum of thirty (30) day notice to LANDLORD prior to the cancellation or termination of any insurance policy. Additionally, LANDLORD from time to time may require evidence of such insurance and TENANT shall agree to promptly supply the same.

The insurance provided by TENANT shall apply on a primary basis to and shall not require contribution from, any other insurance or self-insurance maintained by LANDLORD. Any insurance, or self-insurance, maintained by LANDLORD shall be in excess of, and shall not contribute with, the insurance provided by TENANT.

Except as otherwise specifically authorized in this Agreement, no deductible or self-insured retention for any required insurance provided by TENANT pursuant to this Agreement will be allowed. To the extent any required insurance is subject to any deductible or self-insured retention (whether with or without approval of LANDLORD), TENANT shall be responsible for paying on behalf of LANDLORD any such deductible or self-insured retention. LANDLORD, from time to time, may require evidence of all such insurance coverages and policies as provided above and TENANT shall agree to supply these policies or proof of insurance. LANDLORD shall further have the right to require TENANT to make reasonable increases to the minimum required limits of insurance specified herein during the term of this lease.

7. **USE OF PREMISES.** TENANT shall utilize the Demised Premises for all uses pertinent to and related to its operation of a retail convenience store. TENANT agrees not to conduct its operations in a manner that disturbs the quiet enjoyment of occupants of the surrounding property and agrees to conduct its operations in compliance with all applicable laws.

TENANT further agrees to keep the Demised Premises in a clean and sanitary condition; to comply with all laws, ordinances, rules, regulations, environmental permits, and all other obligations imposed by applicable provisions of building, housing, health and environmental codes of any local, state, or federal law, regulation, or agency; to make no alterations or additions to the Demised Premises without the prior written consent of LANDLORD; to commit no waste of the Demised Premises; to remove all garbage and other debris which results from the operation of TENANT's operations and use of the premises in a clean and sanitary manner and to remove the garbage and debris in conformity with all laws and regulations; to keep all plumbing fixtures used by TENANT clean and sanitary; to use and operate in a reasonable manner all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances; not to destroy, deface, damage, impair or remove any part of the Demised Premises, or property therein belonging to LANDLORD; to direct persons on the premises with TENANT's consent to conduct themselves in a manner that does not constitute a breach of the peace; and to surrender the Demised Premises at the termination of this Lease in as good state and condition as reasonable use and wear will have permitted.

8. **MAINTENANCE AND REPAIR.** TENANT shall at all times maintain the Demised Premises in a first-class condition and appearance, in compliance with all local, state, or federal statutes, codes, ordinances and rules. TENANT shall keep and maintain in good order and condition (which maintenance shall mean replacement if necessary), with the exception of ordinary wear and tear, interior walls, ceilings, interior portions of all doors, windows, glass, plumbing and sewage facilities, fixtures, heating, air-conditioning (including exterior mechanical equipment), interior electrical equipment serving the Demised Premises, floors, and all other

parts of the Demised Premises. LANDLORD shall be responsible for the maintenance of the exterior of the building, including the foundation, exterior walls, and roof. LANDLORD shall maintain the parking area and grounds, which maintenance shall include repair of the parking area and grounds.

9. **ALTERATIONS.** TENANT shall not make any alterations, additions, or improvements to the Demised Premises without the prior written consent of LANDLORD, except for the installation of unattached, movable trade fixtures which may be installed without defacing the Demised Premises. All alterations, additions, improvements and fixtures (other than movable trade fixtures) which may be made or installed upon the Demised Premises shall become the property of LANDLORD upon installation and shall remain upon and be surrendered with the Demised Premises at the termination of the Lease unless LANDLORD requests their removal, in which event TENANT shall remove the same and restore the Demised Premises to the original condition at TENANT's expense. Any linoleum, carpeting, or other floor covering which may be cemented or otherwise affixed to the floor of the Demised Premises shall be a permanent fixture and shall become the property of LANDLORD without credit or compensation to TENANT.

10. **UTILITIES.** TENANT shall contract in its own name and shall pay the charge before delinquency, for all utility services rendered or furnished to the Demised Premises, including but not limited to, electricity, water, gas, sewage, garbage pick-up, telephone, and internet, together with all taxes or other charges levied on such utilities.

11. **TITLE TO IMPROVEMENTS.** Title to any building, structure, or other improvements (other than movable trade fixtures) that shall be constructed, installed, or placed

upon the Demised Premises shall vest in LANDLORD upon the termination of this Lease or any renewal or extension hereof, and TENANT acknowledges that it shall have no right to remove such fixed and permanent improvements and any fixed appliances, apparatus, or equipment related to the improvements, including all replacements, accessories and modifications thereof from the Demised Premises.

12. **DAMAGE AND OBLIGATION TO RESTORE.** TENANT shall give immediate written notice to LANDLORD of any damage caused to the Demised Premises by fire or other casualty. If the Demised Premises should be: (1) damaged by any uninsured casualty or; (2) be damaged to an extent in excess of fifty percent (50%) of the cost of replacement thereof, LANDLORD may elect either to terminate the Lease or to proceed to rebuild and repair the Demised Premises. Should LANDLORD elect to terminate the Lease, it shall give written notice of such election to TENANT within ninety (90) days after the occurrence of such casualty. Except as otherwise provided herein, in the event the Demised Premises should be damaged by fire or other casualty insurable under standard fire and extended insurance coverage, LANDLORD shall proceed with reasonable diligence to rebuild and repair the Demised Premises. LANDLORD's obligation to rebuild and repair shall be limited to restoring the Demised Premises to substantially return to the condition in which same existed prior to the casualty, shall be limited to the extent of the insurance proceeds available to LANDLORD for such restoration and, further, shall exclude any obligation with regard to the personal property and trade fixtures of TENANT. In the event any portion of the facility should be damaged to such an extent that LANDLORD, in its sole discretion, should elect to discontinue operation of the Human Development Resources Center,

LANDLORD may cancel this lease by giving written notice to TENANT, and the lease shall terminate and become null and void.

13. **LIABILITY AND INDEMNIFICATION.** LANDLORD shall not be liable for any damage or injury, whether it be to the person or property, of TENANT, TENANT's employees, agents, guests, invitees, or otherwise, by reason of TENANT's occupancy of the Demised Premises or because of fire, flood, wind storm, acts of God, or for any other reason, except such damage or injury arising or occurring as a result of LANDLORD's positive acts, negligence, acts or omissions. This paragraph shall apply also to damage caused as previously stated or by frost, steam, excessive heat or cold, falling objects, broken glass, sewage, gas, odors, or noise, or the bursting or leaking of pipes of plumbing fixtures and shall apply equally whether any such damage results from the acts or omissions of other tenants, occupants or of any other person, whether such damage be caused by or result from any other thing or circumstances above mentioned, or any other thing or circumstances, whether of a like or wholly different nature.

14. TENANT hereby agrees to indemnify and hold harmless LANDLORD and its officers and employees from and against any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and costs, by reason of damage to persons or property as a result of an accident upon the Demised Premises or events caused by the negligence, recklessness, or intentional misconduct of TENANT, its agents, its officers, or its employees, while TENANT is in possession thereof.

15. **ASSIGNMENT AND SUBLETTING.** The identity and financial standing of TENANT is a material consideration of LANDLORD in entering into the Lease. TENANT shall not voluntarily, involuntarily, or by operation of law assign, sell, mortgage, pledge, or in any manner

transfer the Lease or any estate or interest therein or sublet the Demised Premises or any part thereof, or grant any license, concession, or other right to occupy any portion of the Demised Premises without the prior written consent of LANDLORD.

16. **DEFAULT AND REMEDIES.** The occurrence of any one or more of the following events shall constitute a material default and breach of the Lease by TENANT:

(a) The vacating or abandonment of the Demised Premises by TENANT.

(b) The failure by TENANT to observe or perform any of the covenants, conditions or provisions to be observed or performed by TENANT where such failure shall continue for a period of ten (10) days after written notice thereof from LANDLORD to TENANT; provided, however, that if the nature of TENANT's default is such that more than ten (10) days are reasonably required for its cure, TENANT shall not be deemed to be in default if TENANT commences such cure within said ten day period and thereafter diligently pursues such cure to completion.

In the event of any default or breach by TENANT, LANDLORD may at any time thereafter declare this Lease terminated, terminate TENANT's right to possession of the Demised Premises, and retake possession thereof.

Either party may also terminate this Lease by serving the other party with ninety (90) days written notice of intent to terminate with written notice sent to each party at the addresses listed below.

AS TO LANDLORD:

City of Fort Pierce
100 North US #1
Fort Pierce, FL 34950

Attention: City Manager
City Attorney
FPRA Director

AS TO TENANT:

Ruth M. Clendenin
1607 Seaway Drive
Fort Pierce, FL 34949

17. **NOTICES.** All notices required to be served upon LANDLORD shall be served by registered or certified mail, return receipt requested, to: CITY OF FORT PIERCE, Attn: City Manager, with copies to the Office of the City Attorney, at the address designated in Section 16 above, or such other place as LANDLORD may designate in writing. All notices required to be served upon TENANT shall be served by hand delivery or registered or certified mail, return receipt requested to: RUTH M. CLENDENIN, at the address designated in Section 16 above, or such other place as TENANT may designate in writing. All such notices shall be deemed to have been duly given, delivered, or served if and when hand delivered or deposited in the U.S. Post Office, postage prepaid, whether evidence of delivery received is obtained or not obtained.

18. **ACCESS TO PROPERTY.** During the term of this Lease, and any renewal or extension thereof, TENANT shall permit LANDLORD and the agents and representatives of LANDLORD access to the Demised Premises at all reasonable times deemed necessary for the purpose of this Lease, and to assure compliance with all ordinances, statutes and rules and regulations of federal, state and local agencies having jurisdiction.

19. **GENERAL PROVISIONS.** The following general provisions shall be an integral part of this Lease:

(a) Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship of principal and agent or of partnership

or of joint venture between the parties hereof. Neither this Lease, nor any of the terms and provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of LANDLORD and TENANT.

(b) Time is of the essence.

(c) The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

(d) Whenever a period of time is prescribed for action to be taken by either party, said party shall not be liable or responsible for and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of the parties.

(e) Each provision performable by TENANT shall be deemed both a covenant and a condition. The Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. The Lease may be modified in writing only, signed by the parties in interest at the time of modification.

(f) This Lease shall bind the parties, their personal representatives, successors and assigns.

(g) This Lease and the rights of the parties shall be governed by and construed or enforced in accordance with the laws of the State of Florida. Venue for any action arising out of this Lease is in the Courts of St. Lucie County, Florida. Any action shall be tried as a non-jury case.

(h) The terms "LANDLORD" and "TENANT", as used herein, denote both singular and plural and all genders. Where "TENANT" consists of more than one person, whether natural or artificial, all the persons constituting "TENANT" shall be jointly and severally liable for all obligations to be performed by TENANT herein.

20. **RADON GAS.** Pursuant to Fla. Stat. Sec. 404.056(8), Radon is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the St. Lucie County Public Health Unit.

21. **INSPECTION.** LANDLORD or its agents shall have the right to enter the Demised Premises at all reasonable hours for the purpose of inspecting or for any other purpose not inconsistent with the terms and provisions of this Lease.

22. **PARTIAL INVALIDITY.** In the event any term, provision, or condition of this Lease shall be adjudged, decreed, held or ruled to be invalid, such provision or a portion thereof shall be deemed severable, and it shall not invalidate or impair this Lease as a whole or any other provision of this Lease.

23. **NO WAIVER.** No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy upon the violation of such provision, even if such violation is continued or repeated subsequently. No express waiver shall affect any provision other than the one specified in such waiver, and then only for the time and in the manner specifically stated.

IN WITNESS WHEREOF, the parties hereto have signed, sealed, and delivered this Lease as of the day and year first above written.

WITNESS AS TO LANDLORD:

LANDLORD:

ATTEST:

FORT PIERCE REDEVELOPMENT AGENCY

By: _____
Linda Cox, City Clerk

By: _____
Linda Hudson, Chairman

Date: _____

**APPROVED AS TO FORM
AND CORRECTNESS:**

By: _____
Peter Sweeney, City Attorney

TENANT:

WITNESSES AS TO TENANT:

By: _____
Ruth M. Clendenin

Date: _____

Date: _____